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**Atrium Hospitality LP d/b/a The Westin Southfield-Detroit and Local 24, UNITE HERE!, AFL-CIO.**  
Case 07-CA-239682

March 18, 2020

**DECISION AND ORDER**

BY CHAIRMAN RING AND MEMBERS KAPLAN  
AND EMANUEL

The General Counsel seeks a default judgment in this case on the ground that Atrium Hospitality LP d/b/a The Westin Southfield-Detroit (the Respondent) has failed to file an answer to the complaint. Upon a charge filed by Local 24, UNITE HERE!, AFL-CIO (the Charging Party) on April 12, 2019,<sup>1</sup> the General Counsel issued a complaint and notice of hearing on May 29. On September 9, the Regional Director for Region 7 approved an informal settlement agreement, in which the Respondent agreed to take certain actions to remedy the unfair labor practice allegations of the complaint. Thereafter, having concluded that the Respondent failed to comply with the terms of the settlement agreement and pursuant to Section 102.15 of the Board's Rules and Regulations, the Regional Director issued and served on the Respondent on October 30, a reissued complaint, order revoking settlement, and notice of hearing (the reissued complaint), alleging that the Respondent violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On December 12, the General Counsel filed with the National Labor Relations Board a Motion for Default Judgment. On January 23, 2020, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the reissued complaint affirmatively states that unless an answer was received on or before November 13, the Board may find, pursuant to a motion for default judgment, that the allegations in the reissued complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter about

November 13, advised the Respondent that unless an answer was received by November 21, the Region would pursue a default judgment. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the reissued complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, has been a limited partnership with an office and place of business of Southfield, Michigan, and has been engaged in the business of operating a hotel and providing food and lodgings.

In conducting its operations during the 12-month period ending December 31, 2018, the Respondent derived gross revenues in excess of \$500,000.

During the period described above, the Respondent, in conducting its operations, purchased and received at its Southfield, Michigan facility goods valued in excess of \$5000 directly from points outside the State of Michigan.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) and that the Charging Party is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, the Respondent's Assistant General Counsel has been an agent appropriate for the purposes of collective bargaining within the meaning of Section 2(13) of the Act.

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Lead Cook, Line Cook, Prep Cook, Pantry Attendant, Pantry Attendant Lead, Cafeteria Attendant, Steward, Stewarding Lead, Receiving Clerk, Room Attendant, Public Area Attendant, Laundry Attendant, Laundry Lead, House Attendant, Housekeeping Lead, Bartender, Beverage Server, Food Server, Greeter, Bus Attendant, Outlet Lead, Room Service Server, Room Service Expediter, Captain, Server, Bartender, House Attendant, House Attendant Lead, Banquet Runner, Concierge, Concierge Lobby, Front Desk Agent, Night Front Desk Agent, Front Desk Lead, Operator, Night Operator, Luggage Attendant, Night Luggage Attendant, Door Attendant, Bell Captain, and Lead employed by the Respondent at its facility located at 1500 Town Center

<sup>1</sup> All dates are 2019 unless otherwise indicated.

Drive, Southfield, Michigan 48075, but excluding all managers, confidential employees, security personnel, and guards and supervisors under the Act.

At all material times, the Respondent has recognized the Charging Party as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective for the period of December 5, 2016 through February 16, 2021.

At all material times, based on Section 9(a) of the Act, the Charging Party has been the exclusive bargaining representative of the unit.

Since about January 11, the Charging Party has requested in writing the Respondent furnish the Charging Party with the following information:

1. All disciplinary notices (including but not limited to the termination notice) since January 2017;
2. All witness statements relating to the incident;
3. All reports, memos, emails (with any attachments), and other documents constituting or relating to the Employer's investigation into the incident[;]
4. Any correspondence between police and the hotel relating to the incident (including but not limited to any police reports or statements);
5. Any video or audio recording(s) relating to the incident or to the investigation into the incident;
6. Any policy, rule, or other document that the Employer relied upon in deciding to predicate [the grievant's] termination from employment.

The information requested by the Charging Party, as described, is necessary for, and relevant to, the Charging Party's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about January 11, the Respondent has failed and refused to furnish the Charging Party with the information in items 1, 2, and 3, as requested by the Charging Party.

From about January 11 to about May 9, the Respondent unreasonably delayed in informing the Charging Party that the information in Items 4 and 5, as requested by Charging Party, does not exist.

From about January 11 to about May 9, the Respondent unreasonably delayed in furnishing the Charging Party with the information in Item 6, as requested by the Charging Party.

#### CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act.

The unfair labor practices of the Respondent affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order the Respondent to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to furnish the Charging Party with certain information that is necessary and relevant to the Charging Party's performance of its duties as the exclusive collective-bargaining representative of the unit employees, unreasonably delaying in furnishing the Charging Party with such information, and unreasonably delaying in informing the Charging Party that certain requested information does not exist, we shall order the Respondent to provide the Charging Party in a timely manner with the information requested by the Charging Party on January 11 or to inform the Charging Party in a timely manner that such information does not exist.

#### ORDER

The National Labor Relations Board orders that the Respondent, Atrium Hospitality LP d/b/a The Westin Southfield-Detroit, Southfield, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with Local 24, UNITE HERE!, AFL-CIO by failing and refusing to furnish it with requested information that is relevant and necessary to the Charging Party's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

(b) Refusing to bargain collectively with the Charging Party by unreasonably delaying in furnishing relevant information requested by the Charging Party or in informing the Charging Party that such information does not exist.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Charging Party with the information requested by the Charging Party on January 11, 2019, to the extent that it has not already done so.

(b) Within 14 days after service by the Region, post at its Southfield, Michigan facility copies of the attached

notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 11, 2019.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 7 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. March 18, 2020

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John F. Ring, Chairman

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Marvin E. Kaplan, Member

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William J. Emanuel, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD  
APPENDIX  
NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the

# FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with Local 24, UNITE HERE!, AFL-CIO (the Union) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our employees in the bargaining unit.

WE WILL NOT refuse to bargain collectively with the Union by unreasonably delaying in furnishing relevant information requested by the Union or in notifying the Union that such information does not exist.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish the Union in a timely manner the information requested by the Union on January 11, 2019.

ATRIUM HOSPITALITY LP D/B/A THE WESTIN  
SOUTHFIELD-DETROIT

The Board's decision can be found at <http://www.nlr.gov/case/07-CA-239682> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



United States Court of Appeals Enforcing an Order of the National Labor Relations Board."